

### **REMARKS**

This is in response to the Office Action mailed on April 6, 2009 in which claims 1-9 and 13 were rejected. A Request for Continued Examination ("RCE") is filed herewith. In addition, a Petition for a one-month extension of time is also filed herewith to extend the deadline for response from July 6, 2009 to August 6, 2009.

With this Amendment, claims 1 and 8 are amended. The amendments are fully supported by the original specification and drawings. No new matter is added. Claims 4-7, 9 and 13 are canceled above without prejudice or disclaimer, while claims 10-12 were previously canceled. Therefore, claims 1-3 and 8 remain pending in this application. In light of the foregoing amendments and following remarks, Applicant respectfully requests advancement of this application to allowance.

### **Objection to the Specification**

In Section 2 of the Action, the specification is objected to for failing to provide proper antecedent basis for the claimed subject matter. Specifically, the specification was objected to for failing to provide support for the following words or phrases: "means to allow" in claim 1, "regions" in claim 4, "fixing shaft" in claims 6 and 10, and "method" in claim 9, as well as the subject matter of claim 8. Applicant respectfully traverses the objection.

First, it is noted that claim 10 was canceled in the previous Amendment and Response. Therefore, the Examiner's objection to the specification based on claim 10 should be withdrawn.

Second, in an effort to advance this application to allowance, claims 4, 6 and 9 have been canceled above without prejudice or disclaimer. Thus, the objection is now moot with respect to the subject matter of claims 4, 6 and 9.

Third, the objection to claims 1 and 8 should be withdrawn for at least the following reasons. First, claim 1 is amended to delete the phrase "means to allow." Second, claim 8 is amended to recite "wherein the barbs are adapted to engage with the recesses substantially adjacent the shaft portions," which is supported by the original specification and drawings. For example, Figure 3 shows an example of barbs 34, recesses 30, and shaft portions 28. The features are also described in the specification, such as at page 3, lines 22-24, which states: "[w]hen the members 12, 14 are brought together (see Fig. 4) about the valve 20, the barbs 34

engage with the recesses 30 in a position in which the apertures 32 align with the shaft portions 28 and the teeth 24 enter the openings 27.” Further support is found at page 2, lines 21-24 of the specification, where the barbs are described as “adapted to engage with the first member substantially adjacent the shaft portions.”

In view of the foregoing, Applicant requests reconsideration and withdrawal of the objection to the specification.

**Claim Rejection - 35 U.S.C. § 112**

In Section 3 of the Action, claims 9 and 13 are rejected under 35 U.S.C. 112 (first paragraph) as containing subject matter which was not described in the specification, and more specifically for the recitation of “sequential steps” in claim 9. Applicant respectfully traverses the rejection. For example, Applicant proffers that the subject matter was described in the claims as originally filed. However, in an effort to advance this application to allowance, claims 9 and 13 have been canceled above without prejudice or disclaimer. Therefore, the rejection is now moot and withdrawal of the rejection is requested.

In Section 4 of the Action, claim 4 is rejected under 35 U.S.C. 112 (second paragraph) as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention, and more specifically for the double recitation of “regions” in line 2 of the claim. Applicant respectfully traverses the rejection. In an effort to advance this application to allowance, however, claim 4 has been canceled above without prejudice or disclaimer. Therefore, the rejection is now moot. Withdrawal of the rejection is respectfully requested.

Applicant does not otherwise concede the Examiner’s position in connection with the objections/rejections discussed in this and the preceding section; Applicant notes that the amendments described in these sections were not made to overcome an art based rejection and so should not be construed in a limiting manner; and Applicant reserves the right to prosecute the subject matter of the cancelled claims in a continuing application.

**Claim Rejection - 35 U.S.C. § 102(b) - Graziosi**

In Section 6, claims 1, 2, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Graziosi (U.S. Patent No. 2,964,758). Applicant respectfully traverses the rejection. However, in an effort to advance this application to allowance, claim 1 is amended and claim 9 is canceled above without prejudice or disclaimer.

Graziosi fails to disclose or suggest each and every element of claim 1. For example, Graziosi fails to disclose “one of said first or second bracket members including a pair of hollow shaft portions and a pair of recesses” and also fails to disclose that “the other of said first or second bracket members including a pair of apertures and a pair of barbs.” Further, Graziosi fails to disclose the relationship between these components, which is recited in claim 1 as “each of the barbs engaging with each of the respective recesses to engage the first and second bracket members and each of the hollow shaft portions aligning with each of the respective apertures.” The latter features then “allow passage of a respective pair of fixing shafts through the pairs of aligned hollow shaft portions and apertures.” Because none of these elements are disclosed (and/or suggested) in the Graziosi reference, Applicant requests reconsideration and allowance of claim 1.

Numerous advantages are realized by at least some embodiments of the valve mounting bracket assembly described in claim 1. Some of these advantages are stated in the specification of the present application at page 4, lines 5-14.

Further, the clamping device in the Graziosi patent is not a cistern outlet valve mounting bracket assembly as claimed – e.g., it is not a bracket assembly that can mount an outlet valve to a cistern. As previously explained, the device in the Graziosi reference is only able to fix part of a valve to another part of that valve. Second, the Graziosi device does not include any components equivalent to the claimed first and second members, as no parts of the Graziosi device are able to be fixed to the cistern. This latter distinction is important since this feature enables an outlet valve to be easily fixed to the cistern in a manner also allowing easy removal, and without requiring a nut to be placed on the (often inaccessible) tail of the outlet valve. The invention defined in amended claim 1 therefore has improved and simplified construction when compared to the Graziosi device and provides advantages during installation or replacement of the cistern outlet valve (as summarized in the section of the specification referred to above).

Accordingly, Applicant respectfully requests reconsideration and allowance of claim 1, as well claim 2 that depends therefrom. Applicant does not otherwise concede the correctness of the rejection and reserves the right to make additional arguments as may be necessary.

**Claim Rejection - 35 U.S.C. § 102(b) - Grotewohl**

In Section 7, claims 1, 2, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Grotewohl (U.S. Patent No. 803,687). Applicant respectfully traverses the rejection. As noted above, in order to advance this application to allowance, claim 1 is amended, while claim 9 is canceled.

Claim 1 is amended to recite various features that are not disclosed and/or suggested by Grotewohl (either alone or in combination with the other art of record). For example, Grotewohl fails to disclose “one of said first or second bracket members including a pair of hollow shaft portions and a pair of recesses” and also fails to disclose that “the other of said first or second bracket members including a pair of apertures and a pair of barbs.” Further, Grotewohl fails to disclose the relationship between these components, which is recited in claim 1 as “each of the barbs engaging with each of the respective recesses to engage the first and second bracket members and each of the hollow shaft portions aligning with each of the respective apertures.” The latter features then “allow passage of a respective pair of fixing shafts through the pairs of aligned hollow shaft portions and apertures.” Because none of these elements are disclosed in Grotewohl, Applicant respectfully requests reconsideration and allowance of claim 1.

In the device disclosed in the Grotewohl patent, the bracket members C are connected to each other by bolts B, whereas in the device claimed in amended claim 1, the bracket members can be conveniently connected or engaged with each other by virtue of the recesses and barbs, thereby simplifying and improving installation.

The Office Action notes that the bracket assembly described in Grotewohl is disclosed for use with a flush tank of a water closet. Applicant does not dispute this fact. However, Applicant’s claims are specifically directed to a cistern outlet valve mounting assembly. In this context, it is important to note that an outlet valve controls the water leaving the interior of a cistern and the outlet valve itself is mounted within the interior of the cistern. This is in contrast to the device disclosed in the Grotewohl patent which is clearly disclosed as being used on the

outside of a cistern/flush tank. More particularly, column 1, lines 19 to 53 disclose use of the pipe coupling in connecting the outlet pipe of a flush tank to another pipe. There is no disclosure in the Grotewohl patent of using the pipe coupling within the interior of the cistern/flush tank, which is where a cistern outlet valve is located.

Accordingly, Applicant respectfully requests reconsideration and allowance of claim 1, as well claim 2 that depends therefrom. Applicant does not otherwise concede the correctness of the rejection and reserves the right to make additional arguments as may be necessary.

**Claim Rejection - 35 U.S.C. § 103(a)**

**A. Claims 3-6**

In Section 8 of the Action, claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grotewohl in view of Erwin (U.S. Patent No. 5,755,464). Applicant respectfully traverses the rejection. However, in an effort to advance this application to allowance, claims 4-6 are canceled herein without prejudice or disclaimer.

Regarding claim 3, the Office Action acknowledges that the device disclosed in the Grotewohl patent does not include bracket members with teeth able to engage with corresponding openings in the outlet valve as claimed. As discussed above with reference to Section 7 of the Office Action, the Grotewohl patent does not disclose a device used in connection with a cistern outlet valve.

The Office Action submits that the Erwin patent broadly teaches a flange structure for connecting conduits. Even if true, a point that the Applicant does not concede, Erwin would still not be relevant to a person skilled in the art, as the claimed invention is not used to connect conduits. In contrast, the invention is used to mount the outlet valve of a cistern to (the interior of) a cistern. In light of the above, claim 3 is not rendered obvious by the combination of the Grotewohl and Erwin patents.

Accordingly, Applicant respectfully requests reconsideration and allowance of claim 3. Applicant does not otherwise concede the correctness of the rejection and reserves the right to make additional arguments as may be necessary.

**B. Claims 7-8**

In Section 9 of the Action, claims 7 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Grotewohl in view of Erwin as applied to claim 6 above and further in view of Smith (U.S. 696,603). Applicant respectfully traverses the rejection. Claim 7 is canceled above without prejudice or disclaimer.

Although claim 7 is amended herein, some features of claim 7 have been incorporated into claim 1. Claim 1 is not obvious over any combination of Grotewohl, Erwin, and Smith.

First, Applicant respectfully submits that the combination of the Grotewohl and Erwin patents is improper for the reasons discussed above. Second, the further combination of the Smith patent is also improper, as it is also directed to the field of pipe couplings. The claimed invention is not directed to a pipe coupling but instead directed to a specific device used to connect a cistern outlet valve (a submerged valve found within the interior of a cistern) to the cistern.

Further, the device disclosed in amended claim 1 can, by virtue of the barbs and recesses, have its own components assembled with each other in communication with the outlet valve, thereby allowing the entire sub-assembly to be conveniently positioned within the interior of a cistern for connection to same. None of the three cited references disclose making such a sub-assembly nor have any teaching or direction to do so. In light of the above, amended claim 1 is not obvious over the combination of Grotewohl, Erwin, and Smith.

Claim 8 depends from claim 1 and is therefore allowable for at least the same reasons. Further, the specific features of claim 8 are also patentable. For example, Grotewohl, Erwin, and Smith (alone or in combination) all fail to disclose or suggest "wherein the barbs are adapted to engage with the recesses substantially adjacent the shaft portions."

Accordingly, Applicant respectfully requests reconsideration and allowance of claims 1 and 8. Applicant does not otherwise concede the correctness of the rejection and reserves the right to make additional arguments as may be necessary.

### **Conclusion**

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. There may be additional reasons that the pending subject matter is patentably distinct from the cited references in addition to those discussed herein. Applicant reserves the right to raise

any such arguments in the future. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

MERCHANT & GOULD, P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date: 5 August 2009

By: 

Brian H. Batzli  
Reg. No. 32,960  
BHB/BAT:ae